

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:02-cr-259-01

v.

HONORABLE PAUL L. MALONEY

FELIX HERRERA,

Defendant.

_____ /

MEMORANDUM OPINION AND ORDER

Defendant Felix Herrera has filed a motion for modification or reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine). Given the legal posture of this case, further briefing will not assist the Court in light of binding Sixth Circuit authority.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 706 and 711 of the United States Sentencing Guidelines modified the Drug Quantity Table with regard to cocaine base (crack cocaine). These modifications were made retroactive effective March 8, 2008. U.S.S.G. § 1B1.10(c).

However, the defendant is not eligible for a sentence modification. He was sentenced as a career offender and the amendments are of no assistance to him. The applicable guideline range has not been lowered as a result of the retroactive amendments to the Sentencing

Guidelines. *See* United States v. Bridgewater, 606 F.3d 258, 260-01 (6th Cir. 2010); United States v. Washington, 584 F.3d 693, 700-01, (6th Cir. 2009). Accordingly,

IT IS HEREBY ORDERED that Defendant Felix Herrera's motion for modification of sentence pursuant to 18 U.S.C. § 3582(c)(2) (Dkt. #51) is **DENIED**.

Date: September 8, 2010

/s/ Paul L. Maloney

Paul L. Maloney
Chief United States District Judge